

Hon. Ricardo S. Martinez



09-CR-00391-JSR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

MATTHEW GALE KRANE,

Defendant.

NO. CR-09-391-RSM

PLEA AGREEMENT

The United States of America, by and through Jenny A. Durkan,
United States Attorney for the Western District of Washington, Mark N. Bartlett, First
Assistant United States Attorney for said District, Katheryn Kim Frierson, Assistant
United States Attorney for said District, Defendant, Matthew Gale Krane, and his
attorneys, Robert E. Barnes and Peter K. Mair, enter into the following Agreement,
pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C):

1. Rule 20 Waiver. Defendant, having been advised of the right to have the
charges set forth in the Indictment be prosecuted in the Central District of California,
agrees to waive that right to venue and enter a plea of guilty to Count 1, False Statement in
a Passport Application, a violation of 18 U.S.C. Section 1542, in the Western District of
Washington.

2. The Charge. Defendant, having been advised of the right to have this matter
tried before a jury, agrees to waive that right and enter a plea of guilty pursuant to Rule

1 11(c)(1)(C) of the Federal Rules of Criminal Procedure to Count 1 of the Indictment, False
2 Statement in a Passport Application, a violation of 18 U.S.C. Section 1542. By entering
3 this plea of guilty, Defendant hereby waives all objections to the form of the charging
4 document. Defendant further understands that before entering his plea of guilty,
5 Defendant will be placed under oath. Any statement given by Defendant under oath may
6 be used by the United States in a prosecution for perjury or false statement.

7 3. Elements of the Offense. The elements of the offense of Count 1 of the
8 Indictment, False Statement in a Passport Application, a violation of 18 U.S.C. Section
9 1542, are as follows:

10 (1) Defendant made a false statement in an application for a United States
11 passport;

12 (2) Defendant made such false statement willfully and knowingly;

13 (3) Defendant made such false statement with the intent to secure the
14 issuance of a United States passport.

15 Defendant admits that he is, in fact, guilty of this offense as described in
16 Count One of the Indictment.

17 5. The Penalties. Defendant understands that the statutory penalties for the
18 offense False Statement in a Passport Application, a violation of 18 U.S.C. Section 1542,
19 as charged in Count 1 of the Indictment, is a term of imprisonment of up to ten (10) years,
20 a fine of up to \$250,000, a period of supervision following release from prison of up to
21 five (5) years, and a special assessment of one hundred (\$100) dollars. Defendant agrees
22 that the special assessment shall be paid at or before the time of sentencing.

23 Defendant understands that supervised release is a period of time following
24 imprisonment during which he will be subject to certain restrictions and requirements.
25 Defendant further understands that if supervised release is imposed and he violates one or
26 more of its conditions, he could be returned to prison for all or part of the term of
27 supervised release that was originally imposed. This could result in Defendant serving a
28 total term of imprisonment greater than the statutory maximum stated above.

1 Defendant agrees that any monetary penalty the Court imposes, including the
 2 special assessment, fine, or restitution, is due and payable immediately, and further agrees
 3 to submit a completed Financial Statement of Debtor form as requested by the United
 4 States Attorney's Office.

5 Defendant also understands that, by pleading guilty, Defendant may be
 6 giving up valuable government benefits and valuable civic rights, such as the right to vote,
 7 the right to possess a firearm, the right to hold office, and the right to serve on a jury.

8 Defendant further understands that the conviction in this case may subject
 9 Defendant to various collateral consequences, including but not limited to deportation,
 10 revocation of probation, parole, or supervised release in another case, and suspension or
 11 revocation of a professional license. Defendant understands that unanticipated collateral
 12 consequences will not serve as grounds to withdraw Defendant's guilty plea. Defendant
 13 preserves the right to raise the issue of such unanticipated collateral consequences as
 14 grounds for a downward variance for a reduced sentence.

15 6. Rights Waived by Pleading Guilty. Defendant understands that by pleading
 16 guilty, he knowingly and voluntarily waives the following rights:

- 17 a. The right to plead not guilty and to persist in a plea of not guilty;
- 18 b. The right to a speedy and public trial before a jury of his peers;
- 19 c. The right to the effective assistance of counsel at trial, including, if
 20 Defendant could not afford an attorney, the right to have the Court appoint one for
 21 Defendant;
- 22 d. The right to be presumed innocent until guilt has been established
 23 beyond a reasonable doubt at trial;
- 24 e. The right to confront and cross-examine witnesses against Defendant
 25 at trial;
- 26 f. The right to compel or subpoena witnesses to appear on his behalf at
 27 trial;
- 28

1 g. The right to testify or to remain silent at trial, at which trial such
2 silence could not be used against Defendant; and

3 h. The right to appeal a finding of guilt or any pretrial rulings.

4 7. United States Sentencing Guidelines. Defendant understands and
5 acknowledges that, at sentencing, the Court must consider the sentencing range calculated
6 under the United States Sentencing Guidelines, together with the other factors set forth in
7 Title 18, United States Code, Section 3553(a), including: (1) the nature and circumstances
8 of the offense); (2) the history and characteristics of the Defendant; (3) the need for the
9 sentence to reflect the seriousness of the offense, to promote respect for the law, and to
10 provide just punishment for the offense; (4) the need for the sentence to afford adequate
11 deterrence to criminal conduct; (5) the need for the sentence to protect the public from
12 further crimes of the Defendant; (6) the need to provide the Defendant with educational
13 and vocational training, medical care, or other correctional treatment in the most effective
14 manner; (7) the kinds of sentences available; (8) the need to provide restitution to victims;
15 and (9) the need to avoid unwarranted sentence disparity among Defendants involved in
16 similar conduct who have similar records. Accordingly, Defendant understands and
17 acknowledges that:

18 a. The Court will determine his applicable Sentencing Guidelines range
19 at the time of sentencing;

20 b. After consideration of the Sentencing Guidelines and the factors in
21 18 U.S.C. 3553(a), the Court may impose any sentence authorized by law, up to the
22 maximum term authorized by law;

23 c. The Court is not bound by any recommendation regarding the
24 sentence to be imposed, or by any calculation or estimation of the Sentencing Guidelines
25 range offered by the parties or the United States Probation Department, or by any
26 stipulations or agreements between the parties in this Plea Agreement, except as set forth
27 in Paragraph 8 and
28

1 d. Defendant may not withdraw a guilty plea solely because of the
2 sentence imposed by the Court, except as set forth in Paragraph 8.

3 8. Rule 11(c)(1)(C) Agreement. Pursuant to Rule 11(c)(1)(C) of the Federal
4 Rules of Criminal Procedure, the parties acknowledge and agree that the sentence of
5 imprisonment imposed by the Court in this matter shall be served concurrent to the
6 sentence, if any, Defendant receives in Case No. Cr. 08-296 - RSM, or otherwise not
7 exceed a total term of imprisonment of 60 months when both sentences are combined.

8 9. Ultimate Sentence. Defendant acknowledges that no one has promised or
9 guaranteed what sentence the Court will impose.

10 10 Statement of Facts. The parties agree on the following facts. It is not meant
11 to be a complete recitation of all facts relevant to the underlying criminal conduct or all
12 facts known to Defendant that relate to that conduct. Defendant admits he is guilty of the
13 charged offense.

14 On or about February 14, 2008, in Los Angeles County, within the Central
15 District of California, Defendant Matthew Gale Krane willfully and knowingly made a
16 false statement in an application for a United States passport with intent to induce and
17 secure for his own use the issuance of a passport under the authority of the United States,
18 contrary to the laws regulating the issuance of such passports and the rules prescribed
19 pursuant to such laws, in that in such application, Defendant Krane stated that his name
20 was the name of another person, that is the name of C.T.S., that he was born on
21 XX-XX-1962, that his Social Security number was XXX-XX-2189, and that his
22 California driver's license number was XXXXXX-0323, whereas in truth and fact, as
23 Defendant Krane then knew, his name was not the name of C.T.S., he was not born on
24 XX-XX-1962, his Social Security number was not XXX-XX-2189, and his California
25 driver's license number was not XXXXXX-0323.

26 11. Cooperation. Defendant shall cooperate completely and truthfully with law
27 enforcement authorities in the investigation and prosecution of other individuals involved
28 in criminal activity. Such cooperation shall include, but not be limited to, providing and

1 assisting law enforcement in obtaining documents and other evidence, electronic or
2 otherwise, complete and truthful statements to law enforcement officers, as well as
3 complete and truthful testimony, if called as a witness before a grand jury, or at any state
4 or federal trial, retrial, or other judicial proceedings. The Central District of California,
5 the Northern District of California and the Western District of Washington agree any
6 information provided pursuant to this cooperation pertaining to any act or offense
7 committed prior to the date of this Plea Agreement, or any information directly derived
8 from such cooperation, shall not be used against Defendant. Defendant acknowledges
9 that this obligation to cooperate shall continue after Defendant has entered a guilty plea
10 and sentence has been imposed, no matter what sentence Defendant receives; failure to do
11 so may constitute a breach of this Plea Agreement. Both parties agree that all cooperation
12 sessions shall be recorded. If, in the estimation of the United States Attorney, information
13 or testimony provided from the date of the Plea Agreement, proves to be untruthful or
14 incomplete in any way, regardless of whether the untruthfulness was intended to help or
15 hurt the United States' case, the United States may consider that Defendant has breached
16 this Plea Agreement. Both parties recognize and agree that only a court can make the final
17 determination as to whether Defendant's conduct constituted a breach of the plea
18 agreement. The parties agree that information provided by Defendant in connection with
19 this Plea Agreement shall not be used to determine his sentence, except to the extent
20 described in USSG § 1B1.8. Defendant understands and expressly acknowledges,
21 however, that the United States will not file a USSG § 5K1.1 motion for downward
22 departure. The United States agrees and stipulates that no minimum sentence
23 requirements apply to this case and that Defendant is free to seek any sentence, including
24 probation. The United States further agrees and stipulates that it will fully and accurately
25 make known to the Court the extent and usefulness of Defendant's cooperation for the
26 Court's consideration in arriving at a fair and just sentence, which may include both
27 inculpatory and exculpatory information as to other individuals.
28

12. Non-Prosecution of Additional Offenses. As part of this Plea Agreement, the United States Attorney's Offices for the Western District of Washington, Central District of California, and Northern District of California agrees not to prosecute Defendant for any additional offenses known to it as of the time of this Agreement that are based upon evidence in its possession at this time, or that arise out of the conduct giving rise to this investigation. In this regard, Defendant recognizes the United States has agreed not to prosecute all of the criminal charges the evidence establishes were committed by Defendant solely because of the promises made by Defendant in this Agreement. Defendant agrees, however, that for purposes of preparing the Presentence Report, the United States Attorney's Office will provide the United States Probation Office with evidence of all conduct committed by Defendant.

13. Acceptance of Responsibility. The United States acknowledges that if Defendant qualifies for an acceptance of responsibility adjustment pursuant to USSG § 3E1.1(a), and if the offense level is sixteen (16) or greater, his total offense level should be decreased by three (3) levels pursuant to USSG §§ 3E1.1(a) and (b), because Defendant has assisted the United States by timely notifying the authorities of his intention to plead guilty, thereby permitting the United States to avoid preparing for trial and permitting the Court to allocate its resources efficiently.

14. United States and Defendant Obligations. The parties agree:

- a) To abide by all sentencing stipulations contained in this agreement.
- b) At the time of sentencing, the United States agrees to move to dismiss Count 2, the remaining charge against Defendant originally filed in the Central District of California, CR 08 - 912 - DSF.
- c) As part of this agreement, the United States Attorney's Office for the Northern District of California agrees to not prosecute Defendant for any federal crimes related to Defendant's purchase and use of the identity of M.S.M., including but not limited to Defendant's false application for a United States Passport.

1 d) Defendant agrees, however, that at the time of sentencing the Court may
2 consider the dismissed count and uncharged conduct in determining the applicable
3 Sentencing Guidelines range, where the sentence should fall within that range, the
4 propriety and extent of any departure from that range, and the determination of the
5 sentence to be imposed after consideration of the Sentencing Guidelines and all other
6 relevant factors under 18 U.S.C. § 3553(a).

7 e) Defendant agrees that any charges to be dismissed before or at the time of
8 sentencing were not vexatious, frivolous or taken in bad faith, and do not provide
9 Defendant with a basis for any future claims under the "Hyde Amendment," Pub.L. No.
10 105-119(1997).

11 f) At the time of sentencing, provided that Defendant demonstrates an
12 acceptance of responsibility for the offense up to and including the time of sentencing, to
13 recommend a two-level reduction in the applicable sentencing guideline offense level,
14 pursuant to U.S.S.G. § 3E1.1, and to recommend and, if necessary, move for an additional
15 one-level reduction if available under that section.

16 15. Breach, Waiver, and Post-Plea Conduct. Defendant agrees that if he
17 breaches this Plea Agreement, the United States may withdraw from this Plea Agreement
18 and Defendant may be prosecuted for all offenses for which the United States has
19 evidence. Defendant also agrees that if he is in breach of this Plea Agreement, Defendant
20 has waived any objection to the reinstitution of any charges in the Indictment that were
21 previously dismissed or any additional charges that had not been prosecuted.

22 Defendant further understands that if, after the date of this Agreement, he
23 should engage in illegal conduct, or conduct that is in violation of his conditions of release
24 (examples of which include, but are not limited to: obstruction of justice, failure to appear
25 for a court proceeding, criminal conduct while pending sentencing, and false statements to
26 law enforcement agents, the Pretrial Services Officer, Probation Officer or Court), the
27 United States is free under this Agreement to file additional charges against Defendant or
28 to seek a sentence that takes such conduct into consideration. Such a sentence could

1 include a sentencing enhancement under the United States Sentencing Guidelines or an
 2 upward departure from the applicable sentencing guidelines range.

3 16. Waiver of Appeal As part of this Plea Agreement and on the condition that
 4 the Court imposes a custodial sentence that is within or below the Sentencing Guidelines
 5 range as determined by the Court, Defendant waives to the full extent of the law:

6 a. any right conferred by Title 18, United States Code, Section 3742 to
 7 appeal the sentence, including any restitution order imposed; and

8 b. any right to bring a collateral attack against the conviction and
 9 sentence, including any restitution order imposed, except as it may relate to the
 10 effectiveness of legal representation

11 Furthermore, this waiver does not preclude Defendant from bringing an
 12 appropriate motion pursuant to 28 U.S.C. 2241, to address the conditions of his
 13 confinement or the decisions of the Bureau of Prisons regarding the execution of his
 14 sentence.

15 If Defendant breaches this Plea Agreement at any time by appealing or
 16 collaterally attacking (except as to effectiveness of legal representation) the conviction or
 17 sentence in any way, the United States may prosecute Defendant for any counts, including
 18 those with mandatory minimum sentences, that were dismissed or not charged pursuant to
 19 this Plea Agreement.

20 17. Voluntariness of Plea. Defendant agrees that he has entered into this Plea
 21 Agreement freely and voluntarily, and that no threats or promises, other than the promises
 22 contained in this Plea Agreement, were made to induce Defendant to enter {this plea/these
 23 pleas} of guilty.

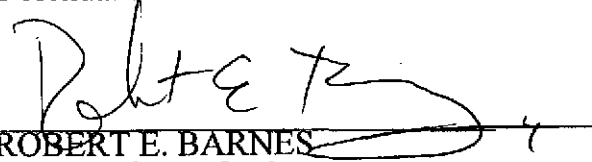
24 18. Statute of Limitations. In the event this Agreement is not accepted by the
 25 Court for any reason, or Defendant has breached any of the terms of this Plea Agreement,
 26 the statute of limitations shall be deemed to have been tolled from the date of the Plea
 27 Agreement to: (1) 30 days following the date of non-acceptance of the Plea Agreement by
 28

1 the Court; or (2) 30 days following the date on which a breach of the Plea Agreement by
2 Defendant is discovered by the United States Attorney's Office.

3 19. Completeness of Agreement. The United States and Defendant
4 acknowledge that these terms constitute the entire Plea Agreement between the parties.
5 This Agreement binds only the United States Attorney's Office for the Western District of
6 Washington. It does not bind any other United States Attorney's Office or any other
7 office or agency of the United States, or any state or local prosecutor.

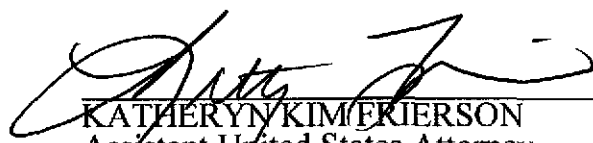
8 Dated this 10 day of December, 2009.

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10 
11 MATTHEW GALE KRANE
12 Defendant

13 
14 ROBERT E. BARNES
15 Attorney for Defendant

16
17 PETER K. MAIR
18 Attorney for Defendant

19 
20 MARK BARTLETT
21 First Assistant United States Attorney

22 
23 KATHERYN KIM FRIERSON
24 Assistant United States Attorney